

ESTTA Tracking number: **ESTTA453194**

Filing date: **01/25/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	MrAndreDRossouw
Granted to Date of previous extension	01/28/2012
Address	7407 Lemp Avenue North Hollywood, CA 91605 UNITED STATES
Correspondence information	MrAndreDRossouw 7407 Lemp Avenue North Hollywood, CA 91605 UNITED STATES gwinfo@ymail.com, andreross2000@yahoo.com Phone:818-299-7394

### Applicant Information

Application No	85358119	Publication date	11/29/2011
Opposition Filing Date	01/25/2012	Opposition Period Ends	01/28/2012
Applicant	Google Inc. 1600 Amphitheatre Parkway Mountain View, CA 94043 UNITED STATES		

### Goods/Services Affected by Opposition


Class 045. All goods and services in the class are opposed, namely: On-line social networking services
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### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	3541298	Application Date	08/31/2007
Registration Date	12/02/2008	Foreign Priority Date	NONE
Word Mark	GOOGABOX		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 045. First use: First Use: 2007/03/01 First Use In Commerce: 2008/03/01 Internet based social networking and dating services featuring classifieds and video postings

Attachments	77270033#TMSN.jpeg ( 1 page )( bytes ) Opposition Table Of Contents.pdf ( 1 page )(61111 bytes ) Opposed party signed receipt.pdf ( 1 page )(604921 bytes ) Letter Of Protest Memorandum.pdf ( 1 page )(120019 bytes ) Cease And Desist (1) (a-b).pdf ( 2 pages )(80571 bytes ) Brief Of Arguments 1(a-d).pdf ( 4 pages )(98116 bytes ) Market Research appendix 1.pdf ( 1 page )(43986 bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Facsimile or email (by agreement only) on this date.

Signature	/9047/
Name	MrAndreDRossouw
Date	01/25/2012

# **ATTENTION OPPOSITION BOARD**

## **Notice Of Opposition**

Please find the following materials as evidence  
For opposing Application Trademark Serial # **85358119**  
Also known as **Googleplus** of applicant **Google Inc.**

Relevant Application Trademark was published for opposition  
On the 29<sup>th</sup> November 2011  
As of USPTO record dated 10-27-2011  
And in the timely manner SPECIFIED so opposed.

**Table Of Contents:**

- (1) Evidence of receipt by Opposed Party.
- (2) Letter of protest memorandum as published by USPTO
- (3) Copy Of “Seize And Desist” letter send to opposed party (1) (a-b)
- (4) Brief of arguments put forth to merit opposition.  
(1) (a-d)
- (5) Market Research Appendix (1)
- (6) Market Research Appendix (1) (a)
- (7) Market Research Appendix (2) (a-c)

Opposition Party Representative: Andre Rossouw (CEO Opposition Company) of corresponding address: **Mr. A. Rossouw, 7407 Lemp Avenue, North Hollywood CA, 91605**

Opposed Party Representative: Andrew Abrams (Attorney Of Record) of corresponding address: **Andrew Abrams, Google Inc. 1600 Amphitheatre Parkway, Mountain View, CA, 94043**

Delivered by electronic procedure to: Google Incorporated Legal Department

**Receipt Admittance By "Opposed Party".**

I, the undersigned hereby admit and acknowledge receipt of the following:

**Notice of and copies of Opposition documents**

to be filed by "Opposition Party" within designated time with the TTAB (Trademark Trial And Appeal Board) in the case of GW Incorporated (Opposition Party) versus Google Incorporated (Opposed Party).

That further, By receiving these copies of aforesaid documents I attest that I am a duly appointed representative of "Opposed Party" employed by "Opposed Party" at address:

1600 Amphitheatre Parkway  
Mountain View, CA, 94043  
United States

I understand the importance acknowledging of having received these documents with receipt within 10(ten) days to "Opposition Party" of and failure to do so the TTAB shall be so notified by "Opposition Party" and may decide the case in favor of "Opposition Party" by "default"

By receiving these copies of aforesaid documents I attest to one of the following:

(1) That I Have the authority as appointed representative of "Opposed Party" to duly "channel" these documents to the attention of the addressed representative of correspondence in this matter (Andrew Abrams, Attorney Of Record)

☒ (2) That I AM in fact representative of "Opposed Party" correspondence to this matter.

So signed hereto, this 1 day of December 2011

Signature of duly appointed representative for "Opposed Party" of admittance of receiving Notice of and Copies of Opposition Documents.

Johanna Siskel

Title Trademark Counsel

JOHANNA SISKEL  
Name (Please Print)

RE: SERIAL NO: 85/358119

MARK: GOOGLE +



Commissioner for Trademarks  
P.O. Box 1451  
Alexandria, VA 22313-1451  
[www.uspto.gov](http://www.uspto.gov)

## LETTER OF PROTEST MEMORANDUM

DATE: November 10, 2011

TO: Tejbir Singh  
Law Office 106

FROM: Charles G. Joyner  
Office of the Deputy Commissioner for  
Trademark Examination Policy

SUBJECT: Letter of Protest concerning Application Serial No. 85358119

A Letter of Protest filed before publication has been granted. It has been determined that the evidence submitted by the protester is relevant and may support a reasonable ground for refusal appropriate in *ex parte* examination. Therefore, you must consider the following and make an independent determination whether to issue a requirement or refusal based on the objections raised in the Letter of Protest:

Possible likelihood of confusion with the registered mark identified by the protester

United States Registration No. 3541298

A copy of the registration is available in the X-Search database.

**NOTE:** The acceptance of a letter of protest filed before publication is not a legal determination by the USPTO of registrability, nor is it meant to compromise the integrity of the *ex parte* examination process. It merely serves to bring the submitted evidence to the attention of the examining attorney, who determines whether a refusal or requirement should be raised or ultimately made final.

Appendix (1) (a)

**CEASE AND DESIST**

Law Offices: Currently *Pro Se*  
GWI (GoogaboxWorld Inc.)  
Po. Box 145,  
MD, 20692

(615) 521-2859

Corresponding electronically accepted.

Re: Dispute/ Complaint: Trademark Resemblance/ Infringement

Dear Sir,

We are the proprietors of trademark entitled “**Googabox**”(The "Work") **Registration Number 3541298** We have reserved all rights in the Work, which was first expressed in material form on **March 4, 2008**

We have also parented the company under company name **GWI (GoogaboxWorld Inc.)** creating a BRAND name (gOOgabox) for further future planned services and products. The brand name is currently used with ongoing development in commerce as a “**Social Network**”

Our name consists of 3 Syllables made up from the following: **Goo**=sticky, **GA**= General Assembly, **Box**= Container...”People sticking together in a general assembly contained as one” (under one roof) (in one site) (one assembly )

It has come to our attention that your “work” entitled **Googleplus Serial Number 85358119** is substantially similar and in resemblance to our “work” sharing 2/3rd's in the minimum of all characteristics of our “work” that includes SPELLING as well as SOUND and amount of short SYLLABLES, creating “**unfair assumption**” amongst web users that **WE may be the simulating or infringing party, that is most likely to create negative publicity for us. We simply can not allow web users to entertain the assumption that we may have “copied” YOUR Work to market our product, simply because you have market advantage financially.**

**Googleplus/ Googabox** (both social networks?) We are AWARE that you use a + symbol however it is our stance that in fact this does not change the dilemma and complaint whatsoever as the symbol still HAS to be pronounced as to its representation and recognition of the Work, thus re-iterating the problem we are facing.

The word **googleplus** versus **googabox** is our dilemma and so also appears in all search engines including your own.

Permission or agreements were not discussed or granted, or any attempt made thereof by Google inc. to recognize OUR Work before commencing use of THEIR work, causing their Work to constitute infringement of our Work (rights) As of now upon receiving this notice, it is our assertion that Google inc. is WELL aware of our attempt to open dialogue to the matter at hand, whether response is positively concurred or not, even if

no response by Google inc. is exercised pertaining to the announcement contained within this notice.

In terms of the **Trademark Statutes**, as well as **Case Cite** and the **“DuPont Factors”** used as standard we are entitled to an injunction against your continued infringement, as well as to recover damages from you for any current/ future loss we undoubtedly will suffer as a result of your infringing conduct and “manner” as well as “degree” of conduct pertaining to the complaint charged in this document.

In the circumstances, we demand that you immediately:

- (i) Open dialogue to the discussion of agreements and/ or removal of cause to infringement.
- (ii) Recognize all infringing attributes to ourselves in the following manner: Written and Verbal Admittance/ Open dialogue/ Electronic communication.
- (iii) Immediately cease the use of your Work until this matter is resolved;
- (iv) Undertake in writing to desist from using your Work infringement upon our Work.

We await to hear from you by no later than close of business hour on MONDAY, SEVENTH OF NOVEMBER IN THE YEAR TWO THOUSAND ELEVEN.

This is written without prejudice to our rights, all of which are hereby expressly reserved.

Complaint Detailed: Both trade marks trading **“social networking”**

**Googleplus** (goo-gle-plus) (work) shares 2/3rd's of name resemblance (characteristics) to **Googabox** (goo-ga-box) (work) this is calculated in APPEARANCE, SPELLING, SOUND (PRONUNCIATION) causing obvious problems in terms of public perception and opinion.

Accession:

Further action awaits if any (or) all elements of this document is not duly recognized and so implemented.

Further evidence and Work attributes will be supplied on request thereof after Recognition of this Document by Google inc.

Yours faithfully,

Andre Rossouw CEO

Brief Of Arguments (1) (a)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Representation: *Pro Se*

In the matter of trademark application Serial Number 85358119  
For the mark **Googleplus (google+)**

Published in the official Gazette on **NOVEMBER 29TH 2011**

(GoogaboxWorld Incorporated)

vs

(Google Incorporated)

Marks discussed: “Googleplus”/ “Googabox” (Both Social Networks?)

NOTICE OF OPPOSITION:

*Andre Rossouw, GoogaboxWorld Incorporated  
7404 Lemp Avenue, North Hollywood, CA, 91605*

The above-identified opposing entity believes that he will be damaged by registration of the mark shown in the above-identified application and hereby opposes the same.

General Argument:

(1) Our mark (Googabox) is comprised of the following: Goo= “sticky”, GA= “General Assembly, Box= “Container” promoting “People sticking together in a general assembly contained as one (in one box/site) Further the word “Googa-Mooga is used widely in the meaning of “Expression of surprise or exasperation”

(2) We had NO problem with the opposed party and vise versa, up to the point of their application filing of Googleplus.

(3) The opposed party does not reserve the right to “add” to their “mark” any “extensions” for automatic ownership to the “new” mark for any product they so wish, and should entertain the possibility that they may be in conflict with another mark used in commerce.



## Brief Of Arguments (1) (b)

(4) The opposed party should NOT have the right to apply separate “parts” of their mark to automatically “own” the rights to ANY product they so wish and if so allowed it would definitively open “Pandora’s box” claiming rights to EVERY trademark currently registered with USPTO containing the words “goo” “goog” which are in fact “words” meaning “sticky” and “egg” (Australian) respectively. As in fact OUR mark was inspired by the “Goo-Goo Dolls” and Matchbox 20” both pop bands as our first intention was to start a social network for musicians ONLY thus should eliminate the assumption that we are “riding on the coat tails of Google”.

(5) (a) The uniqueness of the word “Google” is duly recognized as constructed in the least of a combination of any of the four words “GO” “GOO” “GOOG” “OGLE” and perhaps garble. All four words are in fact “words” used in general conversation (how often should not be an issue) Every entity runs a risk of parts in their trademark being commonly used as words to describe something and only the COMBINATION of these words “GO” “GOO” “GOOG” “OGLE” resulting in the “uniqueness” of their trademark OR any one of aforesaid words composed together with garble, such as “oogle” or “gle” or “le” (accounting for the ENGLISH language ONLY)

(b) In this instance as in many current instances the “**uniqueness**” of the mark “Google” is absent in our mark, thus could not cause confusion with our mark by itself, however Googleplus is the contrary. We now claim “uniqueness” of our OWN trademark representing indeed a “social network” and NOT a “search engine” or any other products the mark “Google” may represent. Does anyone say, Goo it? OR Goog it? Or do they in fact say Google it?

(c) The opposed party should only have the right to the word “google” or garble “oogle” at most as previous oppositions of their own clearly show, The words “go” “goo” “goog” or “ogle” have total different meanings and are standalone in their own right thus can not be confused with the mark “Google” Should Google be allowed to “cancel” the mark “Googoo” baby products? If and when they decide to market baby products themselves? In retrospect they had all the right to “cancel” the trademark “Googleyfaces” as it clearly contains the “uniqueness” of their mark.

We re-iterate that the inspiration for our mark comes from the Goo-Goo Dolls (pop group) and Matchbox 20 (pop group)

### **The GROUNDS for opposition are as follows:**

Complaint Defined: SAME PRODUCT.

- (1) **Googleplus/ Googabox** (Name Resemblance) (Section 20 Of The Companies Act) so noted only due to representing the SAME product (social networking) and the “extent” of the resemblance. It MUST be kept in mind that the opposed party has a social network called “ORKUT” in operation currently and does not conflict with our mark “Googabox” thus it could never have been for-seen by GWI that the opposed party may one day decide to add ANOTHER social network to their roster by adding a “plus” to their name. (??) the question of “monopolizing tactics” certainly comes to mind”
- (2) Name Resemblance was calculated using the following:
  - (a) Spelling: (contains the same first four letters as well as the same amount of short syllables and both marks are standard characters) The “+” symbol should be deemed irrelevant as the

## Brief Of Arguments (1) (c)

symbol is also written as “plus” indeed and also searched for as such, and listed in search engines, including their own.

(b) Sound: (pronunciation almost exact as in getting tongue-tied saying the 2 names in conjunction to one another, and again the “+” symbol bears NO relevance, as it is still pronounced as “plus” including sound resemblance in in ALL THREE syllables) especially so when not just reading the marks but also pronouncing them WITHOUT reading them. On the offset by seeing OR hearing the 2 names in conjunction it is quite apparent there's a problem directing to “confusion” “question” tongue slip” “misdirection”.

*(first four letter share, ALL three almost exact sounding syllables and s“ sound on end)*

**Goo-gle-plus**

**Goo-ga-box**

(both social networks?)

**Example: MacDonalds or MacBlomuls (both burger restaurants?)**

(2) We stance that approving the use of the trademark **Googleplus** would have a severe adverse effect on our trademark **Googabox** in perspective of the following:

(a) The notion of OUR trademark being looked upon by consumers (web users in particular) as the “simulating” mark as opposed to the other way around. It is known in general that consumers do NOT favor a “copy” of a brand name.

(b) The confusion now being notably ONLY because of the opposed new trademark filing, as this was NOT the case with the mark “google” being a “search engine” without the “plus” attached to it, (GENERAL ARGUMENT (e)) and now being applied to the same product WE represent ( IC-045) with a “plus” attached to it, thus creating substantial resemblance to our mark because of the unique combination and sound of syllables.

(c) Is likely to cause confusion to the public and dilutes the distinctiveness of GWI's intellectual property and significantly diminishes its value.

(d) Substantial future Financial Loss due to reasons outlined above (a) (b) (c)

(3) Infringement: We do not necessarily claim infringement as a standalone but also as having an “adverse effect” on our mark as outlined above (2) (a) (b) (c) (d) and below (4) as well as in “search engines” to where if a user should type in the letters “goog” to get to “googabox” “googleplus” would indeed be the first to show as a social network thus creating unfair marketing type situations, whereas if we DID NOT have to compete against virtually the same first 4 letters of googleplus as a social network WE would be the site in fact the user would see FIRST as a social network OR in a general search. The opposed party in fact has one of the most widely used search engines and does not have to rely on other search engines to advertise their name and will definitely place THEIR social network on the top of the list, which would otherwise have been fine IF they indeed had a DIFFERENT mark for their social network and not one that is so similar to ours to the point of oppressing our name in “search returns”.

(4) The extreme possibility of our mark being looked upon by consumers as the simulating mark due to

## Brief Of Arguments (1) (d)

the fact that the opposed party is financially more inclined than WE thus have and is ongoing embedding their application mark into the worlds memory with enormous marketing campaigns and spending, creating the belief amongst consumers due to their established fame that their mark is standalone in distinctiveness WITHOUT conflict, an obvious wrong assumption. That being said, unless their mark is NOT approved for registration we face total doom.

(5) Continued Infringement: (pertaining to “time allotment”) Due to the well known name of opposed party and enormous scale of them marketing the opposed mark, (practically overnight and on a worldwide scale) continued infringement is “embedding” the opposed mark into the consumers memory on a daily basis further securing the failure of our mark and should not be so only because we are financially disadvantaged in marketing OUR product/ trademark on such a scale. This is OUR intellectual property we acquired through proper steps and therefore plead this be kept in mind when the question of “time allotment” should arise to the advantage and disadvantages of both parties. We have kept records of when the opposing party was first notified of our intention TO OPPOSE, being of date: NOVEMBER THIRD TWO THOUSAND ELEVEN and ask that “stalling procedures in hope of a favorable outcome” be kept in mind as a possible tactic by the opposing party.

(6) Attempts to resolute has thus far failed with opposed party as they have unequivocally REFUSED WITHOUT RESERVE, any attempts to negotiate the matter at hand.

**Final Thought:** When the question “ are they (Google) doing 2 social networks now?” is asked by a consumer in our course of research, we have a problem with that as this is only NOW the case since Google decided to put their name “Google” to a social network and promoting it with absolute aggression instead of revamping “Orkut” their original social network. We have not experienced the confusion before, just as the “goo-goo dolls” have never been associated with Google (more examples available on “TARR”) neither had we until now.

We hereby fully OPPOSE the registration of the application mark for all or any reason/s above.

We respectfully beg for the Courts consideration in this matter.

So stated and entered this day of November 30<sup>th</sup> 2011

Respectfully,

Andre Rossouw (*Pro Se*)

(Self-Authorized Representative/ Owner) GoogaboxWorld Incorporated

**MARKET RESEARCH**

We have compiled 2 different forms of “Market Research Questionnaires” and asked 10 individuals to complete each form (5 per form respectively) and have included this to add to the merits of opposition.

These forms covers merit questions to BOTH marks “Google” and “Googleplus” in perspective to OUR mark “Googabox”

These individuals are of different walks of life and age thus allowing for a broad opinion on the matter and have NOT been “coached” in any way to provoke a biased opinion.

Please see appendix (1) (a-e) and appendix (2) (a-e)

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